Filed 11/23/09 In re Alejandra H. CA4/1

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re ALEJANDRA H., a Person Coming Under the Juvenile Court Law.	
SAN DIEGO COUNTY HEALTH AND HUMAN SERVICES AGENCY, Plaintiff and Respondent, v. C.H., Defendant and Appellant.	D055430 (Super. Ct. No. SJ11809B)

APPEAL from an order of the Superior Court of San Diego County, Gary M. Bubis, Judge. Affirmed.

C.H. appeals an order terminating his reunification services regarding the dependency of his daughter, Alejandra H. He contends the juvenile court erred by finding reasonable reunification services had been provided to him and he had made only

minimal progress with the provisions of his case plan. Alejandra's counsel joins his position. We affirm the order.

FACTUAL AND PROCEDURAL BACKGROUND

C.H. and M.V., the parents of Alejandra, are Mexican nationals. M.V. also has another daughter, Maria V. Both children are United States citizens. C.H. is Maria's presumed father, but not her biological father. In April 2007 the girls' maternal grandmother, at the direction of a social worker for the San Diego County Health and Human Services Agency (the Agency), took three-year-old Alejandra and nine-year-old Maria from their parents in Tijuana, Mexico, and brought them to San Diego because Maria had alleged C.H. had sexually abused her. On May 1, 2007, the Agency filed juvenile dependency petitions on behalf of Maria and Alejandra, alleging C.H. had sexually abused Maria and as a result Alejandra was also at substantial risk of abuse.

The juvenile court dismissed the petitions on the basis the juvenile court did not have jurisdiction. This court reversed the orders and directed the juvenile court to hold an evidentiary hearing on whether it had emergency jurisdiction. (*In re Maria V.* (Jan. 18, 2008, D051050) [nonpub opn.].) At a subsequent hearing, the juvenile court found it did have emergency jurisdiction. C.H. appealed, and this court upheld the court's orders. (*In re Maria V.* (Mar. 11, 2009, D053423) [nonpub. opn.].)

At the jurisdictional/dispositional hearing on August 26, 2008, the juvenile court found the allegations of the petitions to be true and ordered reunification services be provided to the parents. C.H.'s case plan required him to participate in individual

therapy. Because he lives in Mexico, the therapy was to be provided through the Sistema Nacional Para El Desarollo Integral de la Familia (DIF).

C.H. came to San Diego to visit Alejandra twice each week until March 23, 2008. On March 30 he was denied entry into the United States. His case plan dated June 10, 2008, directed he would have monthly visits at the San Ysidro Border Point of Entry as facilitated by the social worker and the Mexican Consulate. C.H. had regular telephone contact with the social worker. He maintained he had never molested Maria.

In a report for the six-month review hearing on October 8, 2008, the social worker reported C.H. had completed a parenting class through DIF and had undergone a psychological evaluation. She said he had participated in therapy in June 2007, but since that time DIF had not contacted him to resume therapy. C.H. visited Alejandra once each month. The court ordered services to continue for six more months.

In a report dated April 1, 2009, the Agency recommended each parent receive six more months of services. The social worker said DIF reported C.H. had attended six sessions of a men's support group, and the parents said they needed more time because there is a long wait for services in Tijuana. On April 22 the Agency changed its recommendation. It suggested the court continue services for M.V., but terminate C.H.'s services because he had not shown he was participating in any services and he continued to deny sexually abusing Maria.

At the 12-month hearing on June 11, 2009, after considering the evidence presented and argument by counsel, the court found reasonable services had been

provided to both parents, but C.H. had not made substantive progress with the provisions of his case plan. The court continued services for M.V., but terminated C.H.'s services.

DISCUSSION

I

C.H. contends the court erred by finding he had been provided with reasonable reunification services. He argues the Agency did not make adequate efforts to ensure reasonable services were provided to him in Tijuana. He also claims the Agency changed his service requirements during the course of the case in that therapy was the only requirement of his initial services plan, but in a later report the social worker commented he needed to attend domestic violence and parenting classes, be engaged in a variety of therapeutic services, and he had a long therapeutic road ahead of him.

A reviewing court must uphold a juvenile court's findings and orders if they are supported by substantial evidence. (*In re Amos L.* (1981) 124 Cal.App.3d 1031, 1036-1037.) "[W]e must indulge in all reasonable inferences to support the findings of the juvenile court [citation], and we must also '. . . view the record in the light most favorable to the orders of the juvenile court.' " (*In re Luwanna S.* (1973) 31 Cal.App.3d 112, 114.) In determining the sufficiency of reunification services the role of the appellate court is to decide "whether the record discloses substantial evidence which supports the juvenile court's finding that reasonable services were provided or offered." (*Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 762.) The standard is not that the best possible services were provided, but that reasonable services were provided under the circumstances. (*In re Misako R.* (1991) 2 Cal.App.4th 538, 547.) The appellant bears the

burden to show the evidence is insufficient to support the court's findings. (*In re Geoffrey G.* (1979) 98 Cal.App.3d 412, 420.)

Substantial evidence supports the court's finding C.H. received reasonable services. C.H.'s reunification plan states as follows:

> "[C.H.] will participate in individual therapy provided through DIF. The therapy will address issues of sexual abuse perpetration.
>
> [¶] . . . [¶]
>
> "[C.H.] will have monthly visits with Alejandra at the San Ysidro Border Port of Entry as facilitated by the social worker and the Mexican Consulate."

The record indicates that on August 18, 2008, the social worker submitted a form to DIF requesting information on C.H.'s therapy, and on August 19, she contacted the DIF social worker to ask about the parents' therapy and progress. On September 26 the International Liaison stated C.H. would again be referred to therapy within the next few days. Subsequently, it was reported that as of November 20 C.H. had attended six sessions of a men's support group. In June 2009 C.H.'s counsel submitted a letter indicating C.H. began therapy on April 15 and had completed three sessions.

C.H.'s argument that the social worker's incorrect comments that domestic violence and parenting classes were part of his case plan caused the court to find he had not made progress is not supported. Instead, the social worker's stipulated testimony was that, despite the services C.H. had been provided, he continued to deny molesting Maria. When making its findings, the court focused on C.H.'s continued denial, not on the social worker's incorrect statement that he was required to attend parenting classes and domestic

violence treatment. Further, the fact the social worker commented C.H. had a long therapeutic road ahead of him indicated simply that C.H. would need continued therapy in view of the fact that he persisted in denying the sexual abuse.

As to his arguments the Agency did not make good faith efforts to ensure DIF followed through with the Agency referrals for therapy and the referrals were not sufficiently specific, the Agency had little control over the services DIF would provide to C.H. in Mexico. The court's finding of reasonable services is well supported.

II

C.H. also contends the court erred by finding he had made only minimal progress in services. He argues the record shows he was willing to participate, and he notes that early in the case there was a report he had completed both a parenting class and therapy. He argues he also visited Alejandra as regularly as provided in the case plan.

The court may extend services beyond the 18-month hearing date only in an extraordinary case. (*Andrea L. v. Superior Court* (1998) 64 Cal.App.4th 1377, 1388.) Welfare and Institutions Code section 366.21, subdivision (g)(1) requires that at the 12-month hearing, the court may continue the case to the 18-month date only if there is a substantial probability the child will be returned to the parents' custody by that time, or if reasonable services were not provided. For the court to find a substantial probability of return, the court must find:

> "(A) That the parent or legal guardian has consistently and regularly contacted and visited the child.
> "(B) That the parent or legal guardian has made significant progress in resolving problems that led to the child's removal from the home.

> "(C) The parent or legal guardian has demonstrated the capacity and ability both to complete the objectives of his or her treatment plan and to provide for the child's safety, protection, physical and emotional well-being, and special needs." (§ 366.21, subd. (g)(1)(A)-(C).)

C.H. did not meet these requirements. Although he visited Alejandra as often as allowed under the circumstances, he had very little therapy and continued to deny that he had molested Maria. He did not show he had made significant progress in resolving the problem that led to the children's removal or that he could provide for Alejandra's safety and well-being. The court did not err by finding C.H. had not made substantive progress.

DISPOSITION

The order is affirmed.

MCINTYRE, J.

WE CONCUR:

HALLER, Acting P. J.

MCDONALD, J.